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22 CITY OF RICHMOND

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24 UNITED STATES DISTRICT COURT  
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26 NORTHERN DISTRICT OF CALIFORNIA  
27  
28 OAKLAND DIVISION

29 JEFFREY HERSON, an individual; EAST  
30 BAY OUTDOOR, INC., a California  
31 corporation,

32 Plaintiffs,

33 v.

34 CITY OF RICHMOND, a charter city,

35 Defendant.

36 Case No. 4:09-cv-02516-PJH

37 **STIPULATION AND [PROPOSED]  
38 ORDER TO RELEASE SUPERSEDEAS  
39 BOND AFTER APPEAL**

40 Trial Date: July 25, 2011

1        WHEREAS, on August 11, 2011, Magistrate Judge Laurel Beeler ordered Plaintiffs to  
2 pay Defendant sanctions of \$15,000 following Defendant's motion for spoliation sanctions;

3        WHEREAS, on September 12, 2011, the Court denied Plaintiffs' motion for relief from  
4 the Magistrate Judge's order pursuant to Local Rule 72-2;

5        WHEREAS, on October 11, 2011, Plaintiffs filed a notice of appeal of the Court's order;

6        WHEREAS, on October 11, 2011, the Parties stipulated that Plaintiffs would deposit  
7 \$18,750 with the Clerk of the Court as a supersedeas bond to stay Defendant's execution of the  
8 sanctions award pending resolution of the appeal pursuant to Federal Rules of Civil Procedure  
9 62(d). The Parties further stipulated that if Defendant prevailed on appeal, the total sanctions  
10 amount, plus interest and Defendant's costs on appeal, would be deducted from the bond and  
11 paid to Defendant, and the remainder, if any, would be returned to Plaintiffs;

12        WHEREAS, on October 25, 2011, the Court ordered the supersedeas bond approved, and  
13 Plaintiffs deposited \$18,750 with the Clerk of the Court on November 3, 2011;

14        WHEREAS, on October 21, 2014, the Court of Appeals affirmed this Court's judgment,  
15 including the sanctions order;

16        WHEREAS, on April 30, 2015, Plaintiffs filed a petition for a writ of certiorari in the  
17 United States Supreme Court;

18        WHEREAS, on November 6, 2015, the United States Supreme Court granted Plaintiffs'  
19 petition, vacated and remanded the judgment of the Court of Appeals for further consideration,  
20 and awarded Plaintiffs \$300.00 in costs; and

21        WHEREAS, on January 22, 2016, the Court of Appeals, on further consideration,  
22 reinstated its judgment affirming this Court's judgment in full, and that judgment took effect on  
23 February 19, 2016, when the Court of Appeals issued its mandate;

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25        ///

26        ///

27        ///

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1 NOW THEREFORE, the Parties agree, and request that the Court order, as follows:

2 1. The Clerk of the Court shall release the supersedeas bond.

3 2. The Clerk shall issue a check payable to Defendant's attorneys, Shute, Mihaly &  
4 Weinberger LLP, in the amount of \$14,926.13, reflecting the total sanctions award, plus interest  
5 and Defendant's costs on appeal, minus costs awarded to Plaintiffs in the United States Supreme  
6 Court.

7 3. The Clerk shall issue a check payable to Plaintiffs' attorneys, Joshua R. Furman  
8 Law Corporation, In Trust, for the balance of the supersedeas bond, \$3,823.87.

9 IT IS SO STIPULATED.

10 DATED: March 3, 2016

SHUTE, MIHALY & WEINBERGER LLP

11  
12 By: s/Matthew D. Zinn  
13 MATTHEW D. ZINN

14 Attorneys for Defendant  
15 CITY OF RICHMOND

16 DATED: March 3, 2016

JOSHUA R. FURMAN LAW CORPORATION

17  
18 By: s/Joshua R. Furman  
19 JOSHUA R. FURMAN

20 Attorneys for Plaintiffs JEFFERY HERSON and  
21 EAST BAY OUTDOOR, INC.

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I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories indicated by a conformed signature (/S/) within this e-filed document.

DATED: March 3, 2016

SHUTE, MIHALY & WEINBERGER LLP

By: s/Matthew D. Zinn  
MATTHEW D. ZINN

Attorneys for Defendant  
CITY OF RICHMOND

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: March 7, 2016

